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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 ROBERT W GARRISON,

11 Plaintiff,

12 v.

13 STATE OF WASHINGTON
14 DEPARTMENT CORRECTIONS et al.,

15 Defendants.

CASE NO. C12-5396 BHS-JRC

REPORT AND RECOMMENDATION

NOTED FOR :
SEPTEMBER 20, 2013

16 The District Court has referred this 42 U.S.C. § 1983 civil rights action to United States
17 Magistrate Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. §
18 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4.

19 On June 5, 2013, the Court ordered plaintiff to file an amended complaint regarding his
20 retaliation claim (ECF No. 38). The Court's order gave plaintiff until July 5, 2013, to file his
21 amended complaint. Plaintiff has failed to comply with that Court order. Further, the post office
22 returned plaintiff's copy of the Court's order as undeliverable on June 13, 2013 (ECF No. 39). It
23 has been more than sixty days since that mail was returned and plaintiff has not sent the Court an
24 updated address. Local Rule 41(b)(2) states:


1 A party proceeding pro se shall keep the court and opposing parties advised as to
2 his or her current mailing address and, if electronically filing or receiving notices
3 electronically, his or her current email address. If mail directed to a pro se
4 plaintiff by the clerk is returned by the Postal Service, or if email is returned by
5 the internet service provider, and if such plaintiff fails to notify the court and
6 opposing parties within 60 days thereafter of his or her current mailing or email
7 address, the court may dismiss the action without prejudice for failure to
8 prosecute.

9 Further, Fed. R. Civ. P. 41(b) allows for dismissal where a plaintiff has failed to comply
10 with a Court order. Dismissal pursuant to this rule is an adjudication on the merits which means
11 it is dismissal with prejudice.

12 Dismissal of this action is appropriate under either rule. Plaintiff has not kept the Court
13 apprized of his address and he did not file an amended complaint when ordered to. Accordingly
14 the Court recommends that this action be dismissed. The Court recommends the dismissal be
15 with prejudice given the length of time the action was pending and the procedural posture of the
16 case.

17 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have
18 fourteen (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P.
19 6. Failure to file objections will result in a waiver of those objections for purposes of de novo
20 review by the district judge. *See* 28 U.S.C. § 636(b)(1)(C). Accommodating the time limit
21 imposed by Fed. R. Civ. P. 72(b), the clerk is directed to set the matter for consideration on
22 September 20, 2013, as noted in the caption.

23 Dated this 26th day of August, 2013.

24 

J. Richard Creatura
United States Magistrate Judge